

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PCT application of CUMMINS INC., et al) Authorized Officer:) Vinh T. Luong))
International Application Number PCT/US03/23542)) Mailing Date) 17 August 2004
International Filing Date 28 July 2003)) Agent's File) Reference:) 8016-616CUMM)
Title of Invention CONNECTING ROD APPARATUS AND METHOD)))

RESPONSE TO WRITTEN OPINION

Mail Stop PCT
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attn: IPEA/US

Dear Sir/Madam:

In response to the Written Opinion mailed 06 July 2004, regarding the above-referenced PCT Patent Application, Applicant does not wish to make any amendments at this time. Applicant calls to the attention of the Officer amendments that were submitted 7 July 2004

<p>"Express Mail" label number <u>E V 33408722549</u> Date of Deposit <u>17 August 2004</u> I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450. <u>John V. Daniluck</u> Signature of person mailing paper or fee</p>

Respectfully submitted

By John V. Daniluck
John V. Daniluck, #40,581
Woodard, Emhardt, Moriarty,
McNett & Henry LLP
Bank One Center/Tower, Suite 3700
111 Monument Circle
Indianapolis, Indiana 46204 US
(317) 634-3456

Rec'd PCT/PTO 12 JAN 2005

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

NOTIFICATION OF RECEIPT
OF DEMAND BY COMPETENT INTERNATIONAL
PRELIMINARY EXAMINING AUTHORITY

(PCT Rules 59.3(e) and 61.1(b), first sentence
and Administrative Instructions, Section 601(a))

To:

JOHN V. DANILUCK
WOODARD, EMHARDT, MORIARTY, MCNETT &
HENRY LLP
BANK ONE CENTER/TOWER, SUITE 3700
111 MONUMENT CIRCLE
INDIANAPOLIS, INDIANA 46204

Date of mailing
(day/month/year)

03 JUN 2004

Applicant's or agent's file reference

8016-616CUMM

IMPORTANT NOTIFICATION

International application No.

PCT/US03/23542

International filing date (day/month/year)

28 Jul 2003

Priority date (day/month/year)

26 Jul 2002

Applicant

CUMMINS INC.

1. The applicant is hereby notified that this International Preliminary Examining Authority considers the following date as the date of receipt of the demand for international preliminary examination of the international application:

25 FEB 04

2. That date of receipt is:



the actual date of receipt of the demand by this Authority (Rule 61.1(b)).



the actual date of receipt of the demand on behalf of this Authority (Rule 59.3(e)).



the date on which this Authority has, in response to the invitation to correct defects in the demand (Form PCT/IPEA/404), received the required corrections.

3. ☐ **ATTENTION:** That date of receipt is **AFTER** the expiration of 19 months from the priority date. Consequently, the election(s) made in the demand does (do) not have the effect of postponing the entry into the national phase until 30 months from the priority date (or later in some Offices) (Article 39(1)). Therefore, the acts for entry into the national phase must be performed within 20 months from the priority date (or later in some Offices) (Article 22). For details, see the *PCT Applicant's Guide*, Volume II.



(If applicable) This notification confirms the information given by telephone, facsimile transmission or in person on:

4. Only where paragraph 3 applies, a copy of this notification has been sent to the International Bureau.

Name and mailing address of the IPEA/

Mail Stop PCT, Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Authorized officer

Melvin Brooks, Sr.

Facsimile No. 703-305-3230

Telephone No. (703) 305-5163

Form PCT/IPEA/402 (July 1998)

PATENT COOPERATION TREATY

RECEIVED

JUL 08 2004

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

Rec'd PCT/PTO 12 JAN 2005

To:
JOHN V. DANILUCK
WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY
LLP
BANK ONE CENTER/TOWER, SUITE 3700
111 MONUMENT CIRCLE
INDIANAPOLIS, IN 46204

PCT

Woodard, Emhardt, Moriarty,
McNett & Henry LLP

WRITTEN OPINION

(PCT Rule 66)

ENTERED
9.6.04Date of Mailing
(day/month/year)

06 JUL 2004

Applicant's or agent's file reference

8016-616CUMM

REPLY DUE

within 2 months/days from
the above date of mailing

International application No.

PCT/US03/23542

International filing date (day/month/year)

28 July 2003 (28.07.2003)

Priority date (day/month/year)

26 July 2002 (26.07.2002)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): F16C 07/00 and US Cl.: 74/579E

Applicant

CUMMINS INC.

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application
3. The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).~~

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 28 November 2005 (28.11.2005).

Name and mailing address of the IPEA/US

Mail Stop PCT, Attn: IPEA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

Vinh T Luong

Telephone No. 703-308-1113

Form PCT/IPEA/408 (cover sheet)(July 1998)

I. Basis of the opinion**1. With regard to the elements of the international application:***

- ☒ the international application as originally filed
- ☒ the description:
pages 1-23, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☒ the claims:
pages 24-28, as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☒ the drawings:
pages 1-38, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☐ the sequence listing part of the description:
pages NONE, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

WRITTEN OPINION

International application No.
PCT/US03/23542

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims <u>NONE</u>	YES
	Claims <u>1-24</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-24</u>	NO
Industrial Applicability (IA)	Claims <u>1-24</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-24 clearly lack novelty under PCT Article 33(2) as being anticipated by Taguchi (US Patent No. 6,027,784). See Taguchi's Figs. 1-3.

Claims 1-24 meets the criteria set out in PCT Article 33(4), and thus has industrial applicability because the subject matter claimed can be made or used in industry.

----- NEW CITATIONS -----

WRITTEN OPINION

International application No.
PCT/US03/23542

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.